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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/725,737

11/29/2000

Peter Joseph Giacomini

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06/02/2006

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EXAMINER

VU, THONG H

ART UNIT

PAPER NUMBER

2142

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/725,737

Applicant(s)

GIACOMINI ET AL.

Examiner

Thong H. Vu

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. Claims 1-32 are pending.
2. The copending information is recorded.
3. Applicant's arguments, see pages 3-8, filed 2/23/06, with respect to the rejection(s) of claim(s) 1-32 under Mulla and Fuoco have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Ali and Tran.

Claim Rejections - 35 USC § 112

4. Claims 1-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It was unclear that When and How an occasionally the i integer request is greater or more than one request. Examiner reminds the applicant that the invention was required a useful, concrete and tangible result to be patentability.
5. Claims 1-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1 the i integer may be one or occasionally more (i.e.: greater) than one or variable. In claim 2, I integer claimed as invariant. It 's totally contradictory.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-32 are rejected under 35 U.S.C. § 102(e) as being anticipated by Ali et al [Ali, 5,896,506].

6. As per claim 8, Ali discloses a data processing system comprising:

a cache for storing a resource [Ali, cache server, library server and object server via WAN, col 6 lines 29-44]; and

a processor for populating said cache with said resource only when at least number (i) requests for said resource have been received [Ali, cache server populated the resource by the clients requests, col 9 lines 1-25]; wherein number (i) is an integer is an at least occasionally greater than one [Ali, one or more client or one or occasionally more requests, col 6 lines 29-44].

7. As per claims 2,9,16,25 Ali discloses the value of number (i) is invariant [as a design choice.

8. As per claims 3,10,17,26 Ali discloses the value of i is based on calendrical time [Ali, specific time of the day, col 9 lines 60-62].

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9. As per claims 4,11,18,27 Ali discloses said cache is populated with said resource only when at least i requests for said resource have been received within an elapsed time interval [Ali, later time, col 8 lines 5].

10. As per claims 5,12,19,28 Ali discloses the duration of said elapsed time interval, A_t , is based on the value of i [Ali, hours earlier, col 10 line 5].

11. As per claims 6,13,20,29 Ali discloses the value of i is based on calendrical time [Ali, specific time of the day, col 9 lines 60-62].

12. As per claims 7,14,21,30 Ali discloses the duration of said elapsed time interval, A_t , is based on calendrical time [Ali, hours earlier, col 10 line 5].

13. Claims 1,15,24 contain the similar limitations set forth of apparatus claim 8. Therefore, claims 1,15,24 are rejected for the similar rationale set forth in claim 8.

14. As per claims 22,31 Ali discloses said computer network is a hierarchical computer network and said first node has m filial nodes; wherein said cache is populated with said resource only when at least one request for said resource has been received from at least n of said m filial nodes [Ali, a plurality of clients or requests, col 1 lines 25-47]; and wherein m is an integer greater than one, n is an integer greater than

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one, and $m \geq n$ [Ali, one or more client or one or occasionally more requests, col 6 lines 29-44].

15. As per claim 23,32 Ali discloses said computer network is a hierarchical computer network and said first node has m filial nodes [Ali, a plurality of clients or requests, col 1 lines 25-47]; wherein said cache is populated with said resource only when at least one request for said resource has been received from at least n of said m filial nodes within an elapsed time interval, At [Ali, later time, col 8 lines 5]; and wherein m is an integer greater than one, n is an integer greater than one, and $m \geq n$ [Ali, one or more client or one or occasionally more requests, col 6 lines 29-44].

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-32 are rejected under 35 U.S.C. § 102(e) as being anticipated by Tran et al [Tran, 7,039,683 B1].

16. As per claim 8, Tran discloses a data processing system comprising:

a cache for storing a resource [Tran, cache value, col 4 lines 25-42] ; and a processor for populating said cache with said resource only when at least i requests for said resource have been received [Tran, network with access requestor and resources, Fig 4; popularity of the subject matter, col 2 line 51-col 3 line 19; or determine the rate or number of request, col 4 lines 25-42]; wherein i is an integer and is at least occasionally greater than one [Tran, number of request is an integer and randomly or occasionally greater than one, col 4 lines 25-42].

17. As per claims 2,9,16,25 Tran discloses the value of i is invariant as a design choice.

18. As per claims 3,10,17,26 Tran discloses the value of i is based on calendrical time [Tran, delay time, col 12 lines 42-67].

19. As per claims 4,11,18,27 Tran discloses said cache is populated with said resource only when at least i requests for said resource have been received within an elapsed time interval [Tran, delay time, col 12 lines 42-67]

20. As per claims 5,12,19,28 Tran discloses the duration of said elapsed time interval, At , is based on the value of i [Tran, delay time, col 12 lines 42-67].

21. As per claims 6,13,20,29 Tran discloses the value of i is based on calendrical time [Tran, delay time, col 12 lines 42-67].

22. As per claims 7,14,21,30 Tran discloses the duration of said elapsed time interval, A_t , is based on calendrical time [Tran, delay time, col 12 lines 42-67].

23. Claims 1,15,24 contain the similar limitations set forth of apparatus claim 8. Therefore, claims 1,15,24 are rejected for the similar rationale set forth in claim 8.

24. As per claims 22,31 Tran discloses said computer network is a hierarchical computer network and said first node has m filial nodes [Tran, network with access requestor and resources, Fig 4; popularity of the subject matter, col 2 line 51-col 3 line 19; or determine the rate or number of request, col 4 lines 25-42]; wherein said cache is populated with said resource only when at least one request for said resource has been received from at least n of said m filial nodes; and wherein m is an integer greater than one, n is an integer greater than one, and $m \geq n$ [Tran, number of request is an integer and randomly or occasionally greater than one, col 4 lines 25-42].

25. As per claim 23,32 Tran discloses said computer network is a hierarchical computer network and said first node has m filial nodes [Tran, network with access requestor and resources, Fig 4; popularity of the subject matter, col 2 line 51-col 3 line 19; or determine the rate or number of request, col 4 lines 25-42]; wherein said cache is

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populated with said resource only when at least one request for said resource has been received from at least n of said m filial nodes within an elapsed time interval, At [Tran, delay time, col 12 lines 42-67]; and wherein m is an integer greater than one, n is an integer greater than one, and $m \geq n$ [Tran, number of request is an integer and randomly or occasionally greater than one, col 4 lines 25-42].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thong Vu*, whose telephone number is (571)-272-3904. The examiner can normally be reached on Monday-Thursday from 6:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Andrew Caldwell*, can be reached at (571) 272-3868. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thong Vu
Primary Examiner
Art Unit 2142

